

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.4671 OF 2002

1. Shri Namdeo Manu Sakat (Mang),)
Age about 67 years,)
Occupation - Agriculture,)
2. Shri Yeshwant Manu Sakat (Mang))
Age about 62 years,)
Occupation - Agriculture,)
Both R/o.Neveri, Tal.Khanapur,)
District - Sangli.).. Petitioners.

Vs.

1. The State of Maharashtra,)
through the Secretary,)
Revenue and Forest Department,)
Government of Maharashtra,)
Mantralaya, Mumbai - 32.)
2. The Divisional Commissioner,)
(Resettlement) Pune Division,)
Pune.)
3. The District Rehabilitation)
Officer, Sangli.)
4. The Special Land Acquisition)
Officer No.7, Sangli,)
(Notice to be served on the)
A.G.P. High Court, Mumbai.).. Respondents

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Shri Dilip Bodake for the petitioners.

Ms S.S.Bhende, AGP for respondents.

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CORAM : R.M.S.KHANDEPARKAR &
V.M.KANADE, JJ.

DATED : 28TH SEPTEMBER, 2005.

ORAL JUDGMENT : (Per V.M.Kanade, J)

1. The petitioners are challenging the acquisition proceedings initiated by the respondents under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1986, hereinafter called as "the Rehabilitation Act, read with the provisions of the Land Acquisition Act, 1894, hereinafter called as "the said Act".

2. The only grievance of the petitioners is that the respondents have not taken into consideration the fact that, out of the total holdings, 5 hectares and 2 ares of the land which was acquired for the purpose of highway prior to the issuance of notification have not been deducted from the total holdings. It is submitted that by virtue of the provisions of Section 2(8) of the Rehabilitation Act, the term "holding" has been defined and in the explanation, certain lands have to be excluded from the total holding. Reliance is placed by learned counsel appearing on behalf of the petitioners that Clause (c) of the said Section 2(8) which states that uncultivable land should be excluded from the total holding. In support of the contention that his land has been acquired, reliance

has been placed on the letter which is issued by the Deputy Executive Engineer, Zilla Parishad, Sangli, dated 11th December, 2001 in which he has stated that an area admeasuring 160 x 14 meters has been acquired for the purpose of highway. He submitted that inspite of this evidence, the aforesaid land has not been deducted from his total holding. It is not possible to accept the submissions made by learned counsel appearing on behalf of the petitioners.

3. The respondents have filed the affidavit-in-reply in which they have stated that the petitioners did not produce any documentary evidence to show that the lands were acquired for the purpose of highway. Apart from that, the present letter, which is annexed by the petitioners in their petition, does not constitute a documentary evidence in support of their submission that the lands of the petitioners were acquired for the purpose of highway. It is further stated in the affidavit-in-reply filed by the Government that the inquiry under Section 5A was conducted after giving personal notices to the concerned land owners on 25th February, 1999. Thereafter, the award was passed on 10th May, 2000 and the possession of the land in question was obtained on 7th August, 2001 and was handed over to the District

Rehabilitation Officer, Sangli. In view of the categorical statement in the affidavit-in-reply, it is clear that the acquisition proceedings had already been concluded in passing of the award and possession also has been handed over to the District Rehabilitation Officer, Sangli. The present petition has been filed in the year 2002. Under the circumstances, there is no merit in the submissions made by learned counsel appearing on behalf of the petitioners.

4. In view of the above, the petition is dismissed. Interim relief stands vacated. Rule stands discharged. No order as to costs.

(R.M.S.KHANDEPARKAR, J)

(V.M. KANADE, J)